

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WILLIAM I. KOCH, an individual,

Plaintiff,

vs.

ERIC GREENBERG, an individual; ZACHYS  
WINE & LIQUOR STORE, INC., a New York  
corporation; and ZACHYS WINE AUCTIONS,  
INC., a New York corporation.

Defendants.

07 Civ. 09600 (BSJ)(DCF)  
ECF Case

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**DECLARATION OF BRUCE A. WESSEL IN SUPPORT OF PLAINTIFF'S  
MOTION FOR ELIMINATION OR MODIFICATION OF THE PROTECTIVE  
ORDER; APPLICATION FOR REMOVAL OF CONFIDENTIALITY  
DESIGNATIONS**

IRELL & MANELLA LLP  
840 Newport Center Drive, Suite 400  
Newport Beach, California 92660-6324  
(949) 760-0991

-and-

MORVILLO, ABRAMOWITZ, GRAND,  
LASON, ANELLO & BOHRER, P.C.  
565 Fifth Avenue  
New York, New York 10017  
(212) 856-9600

*Attorneys for Plaintiff*

I, Bruce Wessel, declare as follows:

1. I am a partner at Irell & Manella LLP, counsel of record for plaintiff William I. Koch ("Koch") in the above-captioned action. I am a member in good standing of the State Bar of California. I have personal knowledge of the facts set forth in this declaration, except those stated on information and belief, and, if called as a witness, I could and would testify competently to such facts under oath. This declaration is offered in support of Koch's Motion for Elimination or Modification of the Protective Order and Application for Removal of Confidentiality Designations.

2. In connection with the deposition of third-party witness J.J. Cortes, Greenberg's counsel wrote Cortes' counsel on April 27, 2010 that Greenberg would enforce his contractual rights against Cortes and on May 26, 2010 suggesting that if certain disclosures occurred, Greenberg would hold Cortes responsible. After the deposition of Maureen Downey, a third-party witness, I am informed and believe that Greenberg's counsel threatened to sue Downey for defamation because of a blog post, a blog post that was used as an exhibit during Downey's deposition. After William Edgerton testified in this proceeding as an expert and fact witness, I am informed and believe that Greenberg sued Edgerton in an action captioned *Greenberg v. Edgerton* filed in Superior Court in Connecticut.

3. This paragraph will be redacted in the public filing because it contains information subject to the protective order.

**REDACTED**

**REDACTED**

4. Attached hereto as **Exhibit A** is a true and correct copy of the Confidentiality and Protective Order that was entered by this Court on August 7, 2009.

5. Attached hereto as **Exhibit B** is a copy of an email from Greenberg to Frank Komorowski dated November 9, 2010 that was provided to Koch's representatives.

6. Attached hereto as **Exhibit C** is a true and correct copy of a letter from Amy L. Hespenheide to Adam L. Pollock and Savannah Stevenson dated November 2, 2010.

7. Attached hereto as **Exhibit D** is a true and correct copy of a publicly available article entitled "Acker Merrall Hong Kong auction 'second biggest ever'" by Richard Woodard of Decanter.com dated June 2, 2010.

8. Attached hereto as **Exhibit E** is a true and correct copy of a letter from Amy L. Hespenheide to Jared R. Gale and Lindsay A. Bush dated April 29, 2010.

9. Attached hereto as **Exhibit F** is a true and correct copy of a letter from Amy L. Hespenheide to Adam L. Pollock dated September 13, 2010.

10. Attached hereto as **Exhibit G** is a true and correct copy of a letter from Amy L. Hespenheide to Adam L. Pollock and Savannah Stevenson dated October 18, 2010.

11. Attached hereto as **Exhibit H** is a copy of the Summons and Complaint filed by Greenberg against William Edgerton in the State of Connecticut Superior Court dated September 9, 2010 that was provided to Koch's counsel.

Executed on November 13, 2010, at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



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Bruce Wessel

**PROOF OF SERVICE**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 840 Newport Center Drive, Suite 400, Newport Beach, California 92660-6324.

On November 23, 2010, I served the foregoing documents described as:

**(1) PLAINTIFF'S NOTICE OF MOTION FOR ELIMINATION OR MODIFICATION OF THE PROTECTIVE ORDER; APPLICATION FOR REMOVAL OF CONFIDENTIALITY DESIGNATIONS**

**(2) MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR ELIMINATION OR MODIFICATION OF THE PROTECTIVE ORDER; APPLICATION FOR REMOVAL OF CONFIDENTIALITY DESIGNATIONS**

**(3) DECLARATION OF ADAM L. POLLOCK**

**(4) DECLARATION OF BRUCE A. WESSEL**

on each interested party, as stated on the service list below.

Arthur J. Shartsis  
Frank Cialone  
Amy L. Hespenheide  
SHARTSIS FRIESE LLP  
One Maritime Plaza, 18th Floor  
San Francisco, CA 94111  
Email: ashartsis@sflaw.com  
fcialone@sflaw.com  
ahespenheide@sflaw.com

Deborah A. Skakel  
Savannah Stevenson  
DICKSTEIN SHAPIRO LLP  
1633 Broadway  
New York, NY 10019  
Email: skakeld@dicksteinshapiro.com  
stevensonson@dicksteinshapiro.com

Anthony Paul Coles  
Melinda Waterhouse  
DLA PIPER LLP  
1251 Avenue of the Americas  
New York, NY 10020-1104  
Email: anthony.coles@dlapiper.com  
melinda.waterhouse@dlapiper.com

☒ **(BY MAIL)** I placed a true copy of the foregoing document(s) in a sealed envelope addressed to each interested party, as stated on the attached service list. I placed each such envelope, with postage thereon fully prepaid, for collection and mailing at Irell & Manella LLP, Los Angeles, California. I am readily familiar with Irell & Manella LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, the correspondence would be deposited in the United States Postal Service on that same day in the ordinary course of business.

☒ **(BY ELECTRONIC MAIL)** I caused the foregoing document to be served electronically by electronically mailing a true and correct copy through Irell & Manella LLP's electronic mail system to the e-mail address(es), as stated on the attached service list, and no error was reported.

Executed on November 23, 2010, at Newport Beach, California. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Bonnie Blythe (bblythe@irell.com)  
\_\_\_\_\_  
(Type or print name)

/s/ Bonnie Blythe  
\_\_\_\_\_  
(Signature)